

CHAPTER 21

LIQUOR

ARTICLE I - GENERALLY

21-1-1 DEFINITIONS. Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

"ALCOHOL" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume.

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like.

"CITY-ASSISTED SPECIAL EVENT" means parades, celebrations, festivals and activities taking place within the City when such event results in the closure of public streets or alleys by action of the City Council, when auxiliary police are provided by the City for security purposes for such event, when the City provides contribution to such event of labor or funds, when the City offers its resources to assist in cleaning debris and litter after such event, or when such event is sponsored by another public body on its premises.

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that

no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club.

"MAYOR" means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"**.

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(Ord. No. 12-4; 03-13-12)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PRIVATE PARTY" means an assembly of persons at a licensed premises, or in a designated room or portion of a licensed premises and during specified hours as indicated on a private party application and license, with such party to occur in lieu of the licensed premises, or the designated portion of the licensed premises, being open to the public.

"PUBLIC PLACE" means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

"RESIDENT" means one who has his residence in this Municipality and is a registered voter at that place of residence.

"RESTAURANT" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests, and obtaining at least **fifty-one percent (51%)** of the annual gross revenue from the sale of food and non-alcoholic beverages.

"RETAILER" means a person who sells or offers for sale, alcoholic liquor for use or consumption and not for resale in any form.

"SALE" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee.

"SELL AT RETAIL" and "SALE OF RETAIL" refer to any mean sales for use or consumption and not for resale in any form.

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

"TO SELL" includes to keep or expose for sale and to keep with intent to sell.

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined.

(Ord. No. 97-1; 04-14-97)

ARTICLE II - LICENSES

21-2-1 LICENSE REQUIRED. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this Municipality without having a license to do so, issued by the Mayor of this Municipality, as Liquor Control Commissioner, in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this Municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this Municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail.

21-2-2 APPLICATIONS. The Mayor, as Liquor control Commissioner, is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this Municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Municipal Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

(A) The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the address and name of such person.

(B) The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

(J) If a Class "A-R" or "D-R" license is applied for, the application shall indicate the period of time which the kitchen facilities are fully operational and full menu service is available.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **two (2) members** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused.

21-2-3 EXAMINATION OF APPLICANT. The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf.

21-2-4 PROHIBITED LICENSEES. No retail license shall be issued by the Mayor to the following:

(A) A person who **is not** a resident of Jackson County, Illinois; (**Ord. No. 98-6; 06-09-98**)

(B) A person who **is not** a citizen of the United States;

(C) A person who has been convicted of a felony under any federal or state law if the Mayor determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(D) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;

- (E) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (F) A person whose license has previously been revoked for cause;
- (G) A person who, at the time of the application for renewal for any license issued hereunder, would not be eligible for such license upon first application;
- (H) A co-partnership, if any general partnership thereof or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason;
- (I) A corporation, if any officer, manager or director thereof or any stockholder owning in the aggregate more than **five percent (5%)** of such corporation, would not be eligible to receive a license hereunder for any reason other than the requirement for citizenship and residence;
- (J) A corporation unless it is incorporated in the State of Illinois, or unless it is a foreign corporation which is qualified under the **"Business Corporation Act of 1983"** to transact business in Illinois;
- (K) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;
- (L) Any person, association, or corporation not eligible for a state retail liquor license;
- (M) A person who is not of good character and reputation in the community in which he resides;
- (N) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Code or has forfeited his bond to appear in court to answer charges for any such violation;
- (O) A person who does not own the premises for which a license is sought, or does not rent nor have a lease thereon for the full period for which the license is to be issued;
- (P) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of a city council or commission, any president of a village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and the Mayor.
- (Q) A person who is not a beneficial owner of the business to be operated by the licensee;
- (R) A person who has been convicted of a gambling offense as prescribed by any of **subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-3 of the "Criminal Code of 1961", approved July 28, 1961**, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;

(S) A person to whom a federal wagering stamp has been issued by the federal government for the current tax period;

(T) A co-partnership to which a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;

(U) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of such corporation has been issued a federal wagering stamp for the current tax period;

(V) Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period.

21-2-5 TERM; FEE SUBMITTED IN ADVANCE. Retail liquor licenses issued under this Chapter shall be valid for a **twelve (12) month periods** upon the payment of the license fee as hereinafter set forth, unless sooner revoked or suspended. The **twelve (12) month period** shall be from **May 1st** of each year to **April 30th** of the following year.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Local Liquor Control Commissioner as hereinbefore provided. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the Municipal General Fund. The application for a license shall be filed with the Municipal Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of the license.

21-2-6 CLASSIFICATION OF LICENSES. There shall be **seven (7)** classes of licenses that shall be referred to as:

(A) **Class "A" Licenses**, which will authorize and permit the licensee to sell liquor by the drink or wine by the bottle for consumption on the premises, or in the original package at retail, but such package liquor shall not be consumed on the licensed premises. The annual fee shall be **Six Hundred Thirty Dollars (\$630.00)**.

(B) **Class "B" Licenses**, which will permit the licensee to sell liquor, in the original package, at retail, but such sold liquor shall not be consumed on the licensed premises. The annual fee for such license shall be **Six Hundred Thirty Dollars (\$630.00)**.

(C) **Class "C" Licenses**, which will permit the licensee to sell beer or wine only in the original package, but such liquor shall not be consumed on the licensed premises. The annual fee for such license shall be **Four Hundred Dollars (\$400.00)**.

(D) **Class "D" Licenses**, which will permit the licensee to sell beer or wine only, by the drink, or wine by the bottle for consumption on the premises, but such liquor shall not be carried from the premises. The annual fee for such license shall be **Four Hundred Dollars (\$400.00)**.

(E) **Class "E" Licenses**, which will permit a bona fide not-for-profit organization having affiliation with a national organization to sell liquor by the drink or wine by the bottle for consumption on the premises, or in the original package at retail, but such packaged liquor shall not be consumed on the licensed premises. The annual shall be **Four Hundred Seventy Dollars (\$470.00)**. (Ord. No. 84-4; 04-17-84)

(F) **Class "A-R" Licenses** may be issued to a Class A licensee who, in addition to meeting the requirements of a Class A licensee, also submits sufficient documentation to the Liquor Control Commissioner to prove the licensed premises is a restaurant as defined herein. The Liquor Control Commissioner may, at his discretion, request additional documentation or an audit of any establishment's records, conducted in accordance with generally accepted accounting procedures, in order to ensure compliance with this requirement. The cost of the audit shall be at the expense of the licensee. The application for license and the license issued to a Class "A-R" licensee shall indicate the period of time which the kitchen facilities are fully operational and full menu service is available. The annual fee for such license shall be **Six Hundred Thirty Dollars (\$630.00)**.

(G) **Class "D-R" Licenses** may be issued to a Class D licensee who, in addition to meeting the requirements of a Class D licensee, also submits sufficient documentation to the Liquor Control Commissioner to prove the licensed premises is a restaurant as defined herein. The Liquor Control Commissioner may, at his discretion, request additional documentation or an audit of any establishment's records, conducted in accordance with generally accepted accounting procedures, in order to ensure compliance with this requirement. The cost of the audit shall be at the expense of the licensee. The application for license and the license issued to a Class "D-R" licensee shall indicate the period of time which the kitchen facilities are fully operational and full menu service is available. The annual fee for such license shall be **Four Hundred Dollars (\$400.00)**.

(H) **Not-For-Profit Organization**. Upon application, the Local Liquor Control Commissioner is authorized to issue a license to any charitable organization which desires to keep any place selling or offering for sale, or in any manner dealing in alcoholic liquors. The fee for such license shall be **One Dollar (\$1.00)** per day, subject to the provisions of this Code. No such license shall be transferable, and no charitable organization shall be issued a license for more than a total of **five (5) days** in any yearly period which extends from **May 1** through **April 30**, with a maximum of only **three (3)** such days being consecutive days.

(I) **Class "M" License**, which will authorize a manufacturer (brewer) licensed by the State of Illinois for the premises in which the licensee actually conducts such business, permitting only the retail sale of beer manufactured by the licensee at such premises and the sale only on such premises, which beer may be sold by the drink for consumption on the premises, including tasting or sampling of the licensee's beer which shall occur on the premises, or sold in the original package to be consumed on or off the premises. No other beer, wine, distilled spirits or other alcohol shall be sold, served or consumed on the premises. A manufacturer shall not receive more than one such retailer license. All applicable taxes, including sales taxes, shall be collected and paid by the licensee. The annual fee for such license shall be **Two Hundred Dollars (\$200.00)**. (Ord. No. 12-4; 03-13-12)

21-2-7 NATURE OF LICENSE. A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee.

21-2-8 ISSUANCE OF LICENSES. Upon the application being prepared and executed by the applicant, the same shall be submitted to the Mayor, as Liquor Control Commissioner, for approval. The Liquor Control Commissioner may withhold action on the application for **fifteen (15) days** for investigation of the application file before finally taking action thereon.

In the event the Liquor Control Commissioner, after his investigation as provided herein, has any question concerning the eligibility of the particular applicant to receive a license under this Code, then said Liquor Control Commissioner shall confer with a special liquor advisory committee. This committee shall be appointed by the Mayor, shall consist of **three (3) members**, and these **three (3) members** shall be selected from among the members of the City Council. In the event the Liquor Control Commissioner has asked the advice of his advisory committee, then no final action shall be taken on the application until the advisory committee has met and made its recommendations to the Liquor Control Commissioner; provided, however, that the final decision concerning the issuance of the license shall be made by the Liquor Control Commissioner. **(Ord. No. 72-2; 01-25-72)**

21-2-9 RECORD OF LICENSES. The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours**.

(Ord. No. 97-1; 04-14-97)

ARTICLE III - REGULATIONS

21-3-1 HOURS. It shall be unlawful to sell or offer for sale at retail, any alcoholic liquor in the City between the hours of **one o'clock (1:00) A.M.** and **six o'clock (6:00) A.M.** of any Monday, Tuesday, Wednesday, Thursday, or Friday; or between the hours of **one fifty-nine o'clock (1:59) A.M.** and **six o'clock (6:00) A.M.** of any Saturday or between the hours of **one fifty-nine o'clock (1:59) A.M.** and **twelve o'clock (12:00) Noon** on any Sunday; provided, however, that the sale of alcoholic liquor will be permitted until **two o'clock (2:00) A.M.** on **January 1** of every year. It shall be unlawful to keep open for business or admit the public to or allow any member of the public to remain upon any premises in or on which alcoholic liquor is licensed to be sold, during the hours within which the sale of such alcoholic liquor is prohibited, as above provided.

The times referred to above shall mean Daylight Savings Time when the same is in effect in the City and upon cessation of Daylight Savings Time, shall mean Central Standard Time. The time of **1:59 A.M.**, as stated above, shall mean the first occurrence of said time on the day of cessation of Daylight Savings Time.

A restaurant may be kept open after these hours, but no alcoholic liquor may be sold or consumed by the public. **(Ord. No. 70-3; 05-29-70)**

The holder of a Class "M" license shall cease the sale or the offering for sale at retail in or upon the licensed premises of any beer after **10:00 P.M.** on any day. **(Ord. No. 12-4; 03-13-12)**

21-3-2 **HAPPY HOUR RESTRICTIONS.**
(A) **Happy Hours Prohibited.**

- (1) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.
- (2) No retail licensee or employee or agent of such licensee shall:
 - (a) Serve **two (2)** or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except selling or delivering wine by the bottle or carafe;
 - (b) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
 - (c) Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where

- such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection 3(g) of this Section.
- (d) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
 - (e) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
 - (f) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (a) through (e).
- (3) Nothing in subsection A(2) shall be construed to prohibit a licensee from:
- (a) Offering free food or entertainment at any time;
 - (b) Including drinks or alcoholic liquor as part of a meal package;
 - (c) Including drinks of alcoholic liquor as part of a hotel package;
 - (d) Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
 - (e) Providing room service to persons renting rooms at a hotel;
 - (f) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to **two (2)** or more persons at one time; or
 - (g) Increasing prices of drinks of alcoholic liquor in lieu of, in whole, or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.
- (4) A violation of this Act shall be grounds for suspension or revocation of the retailer's license as provided by **Article IV** of this Chapter.

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this

prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

21-3-4 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this State and the Code of this Municipality.

21-3-5 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors.

21-3-6 - 21-3-7 RESERVED.

21-3-8 LIQUOR IN VEHICLES; MINORS. The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A) If such liquor is found on the person of one of the occupants therein; or
- (B) If such vehicle contains at least **one (1) occupant** over **twenty-one (21) years** of age, which occupant shall be deemed to be in possession of such liquor, unless such liquor is found on the person of another occupant.

21-3-9 RESTRICTED RESIDENTIAL AREAS. It shall be unlawful to establish a retail liquor business within the Municipality in violation of the restrictions of the Zoning Code, if any.

21-3-10 ELECTION DAYS. All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

21-3-11 UNLAWFUL ACTS. It shall be unlawful for any person to do or commit any of the following acts within the Municipality, to-wit:

(A) Drink any alcoholic liquors on any private property without permission of an owner thereof;

(B) Appear on or in any public street, alley, sidewalk, or other public place, including parks and recreation areas, in an intoxicated condition;

(C) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way, except when such drinking occurs at the location of and during a City-Assisted Special Event; or

(D) Drink any alcoholic liquors in any public park, except when such drinking occurs at the location of and during a City-Assisted Special Event.

21-3-12 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward]**, or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this Municipality licensed to sell alcoholic liquor are prohibited:

(A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;

(B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(C) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(D) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;

(E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-13 LICENSED PREMISES ENTRY AGE. It shall be unlawful for any person under the age of **twenty-one (21) years** to enter or remain upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class A, Class A-R, Class D, or Class D-R liquor license, unless accompanied by a parent or legal guardian.

No holder of a Class A, Class A-R, Class D, or Class D-R liquor license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to enter or remain upon the licensed premises. For the purpose of preventing the violation of this Section, any holder of a liquor license or his agent or employee may refuse to permit entry onto or the remaining upon the licensed premises of any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or guardian.

This Section shall not apply when any of the following conditions are met:

(A) The licensed premises is a bowling alley, hotel or motel or conventional golf course.

(B) The person is accompanied by a parent or legal guardian at all times while on the premises.

(C) The premises is licensed as Class A-R or Class D-R, and entry occurs only during the period of time in which the kitchen facilities are fully operational and full menu service is available as indicated on the licensee's application and on the license, provided, however, that those individuals under the age of **twenty-one (21) years** at the time the kitchen ceases operation shall be allowed to remain on the premises only for the purpose of consuming food and only for up to **one (1) hour** following the kitchen closing.

(D) The person is an employee of a Class A-R or Class D-R licensee, is at least of the age of **eighteen (18) years**, and is actively engaged in employment duties while under the direct supervision and in the presence of the licensee, if an individual, or other employee of the licensee who is at least **twenty-one (21) years** of age.

(E) The holder of the licensed premises has applied to the Liquor Control Commissioner for, and has been granted, a private party license, on a form authorized by the Commissioner, and the person is an authorized guest or participant of such private party, and, except for ingress and egress, such person remains only on that part of the licensed premises where the private party is to be held and only during the hours as indicated on the license application. The stated hours shall not extend beyond the licensee's otherwise authorized

hours. Application for a private party license must be delivered to the Commissioner at least **five (5) days** in advance of such event unless otherwise allowed by the Commissioner, and a copy of the license shall be delivered by the Commissioner to the Chief of Police prior to the event.

21-3-14 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption.

21-3-15 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor.

21-3-16 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-17 PEDDLING. It shall be unlawful to peddle alcoholic liquor in this Municipality.

21-3-18 GAMBLING. It is unlawful to keep, place, maintain, or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, unless permitted by State Statutes. Video gaming and video gaming terminals when licensed by the Illinois Gaming Board and operated in accordance with the Video Gaming Act **(230 ILCS 40/1 et seq.)** shall specifically be permitted. **(Ord. No. 12-12; 07-10-12)**

21-3-19 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor.

21-3-20 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill, mentally deficient or in need of mental treatment. No person, after

purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service.

21-3-21 PERSONS SELLING LIQUOR. It shall be unlawful for any person under the age of **twenty-one (21) years** to tend any bar or to sell, draw, pour, mix or deliver any alcoholic liquor in any licensed retail premises.

This Section shall not apply when any of the following conditions are met:

(A) This Section does not apply to the sale of package liquor by employees of Class B and Class C liquor licensees, where such employees are at least **eighteen (18) years** of age and make such sale under the direct supervision and in the presence of the licensee, if an individual, or other employee of the licensee who is at least **twenty-one (21) years** of age.

(B) This Section does not apply to the delivery of alcoholic liquor by employees of Class A-R or Class D-R liquor licensees, where such employees are at least **eighteen (18) years** of age and make such delivery under the direct supervision and in the presence of the licensee, if an individual, or other employee of the licensee who is at least **twenty-one (21) years** of age.

21-3-22 UNLAWFUL CONSUMPTION, PURCHASE OR POSSESSION OF LIQUOR. The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or attempt to purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession, unless such possession is as an employee who is at least **eighteen (18) years** of age under the conditions stated in **Section 21-3-21**.

21-3-23 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this Section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon.

21-3-24 TRANSFER OF IDENTIFICATION CARD. No person shall transfer, alter or deface such an identification card containing proof of age issued by a public officer in the performance of his official duties; use such identification card of another; carry or use such false, or forged identification card; or obtain such an identification card by means of false information.

21-3-25 BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS. It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois.

21-3-26 POSTING WARNING. In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

"YOU ARE SUBJECT TO A FINE UP TO \$500 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE OR ATTEMPT TO PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR."

It shall be unlawful for any holder of a retail liquor dealer's license or his agent or employee to suffer or permit any person under the age of **twenty-one (21) years** to be or remain in any room or compartment adjoining or adjacent to or situated in the room or place where such licensed premises are located, provided that this paragraph shall not apply to any such person who is accompanied by his parent or guardian, or any licensed premises which derives its principal business from the sale of services or other commodities other than alcoholic liquor.

21-3-27 EXCLUSIONARY PROVISION. The possession and dispensing or consumption by a person under the age of **twenty-one (21) years** of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by such person under the direct supervision and approval of the parent or parents of such person in the privacy of a home is not prohibited by this Chapter.

21-3-28 INSPECTIONS. It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or any member of the Corporate Authorities for the purpose of making an inspection of such premises or any part thereof.

(Ord. No. 97-1; 04-14-97)

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment.

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally.

21-4-3 REVOCATION OF LICENSE AFTER CONVICTION. Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license.

21-4-4 REVOCATION OF LICENSE WHEN EMPLOYEE CONVICTED. Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted.

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code.

21-4-6 ABATEMENT OF PLACE USED IN VIOLATION. Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State and this City for the abatement of public nuisances.

21-4-7 USE OF PREMISES FOR ONE YEAR AFTER REVOCATION. When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter.

21-4-8 ADDITIONAL POWERS OF LIQUOR CONTROL COMMISSIONER. The Mayor as Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code:

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Commissioner may suspend for cause for not more than **thirty (30) days** or revoke for cause any liquor license issued under this Code for violation of any State law or municipal ordinance pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-12** of this Code.

21-4-9 COMPLAINT BY RESIDENTS. Any **five (5) residents** of the Municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any

amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(See 235 ILCS Sec. 5/7-7)**

21-4-10 HEARINGS. The Liquor Commissioner may convene and conduct a public hearing into any matter relating to this Code whenever in his discretion he deems appropriate. In addition public hearings shall be held in the following instances:

- (A) Upon receipt of an application for a new license or for renewal or transfer of an existing license when the Commissioner determines that receipt of formal evidence is necessary or the applicant requests a hearing;
- (B) Upon denial of an application for a new license, for renewal of an existing license or for transfer of a license if the applicant requests a hearing;
- (C) Upon complaint or report of a violation by a licensee under this Code or State law.

21-4-11 HEARING PROCEDURE. The Liquor Commissioner shall observe the following procedures in conducting hearings under this Code:

- (A) At all times every licensee shall be afforded due process which shall be construed to include the right to appear personally before the Commissioner; the right to demand written specification of any charges against him a reasonable time in advance of any hearing; the right to employ and be represented by counsel during all proceedings; the right to testify in his own behalf or refuse to testify; the right to present witnesses in his behalf and to request that subpoenas be issued to compel the attendance of witnesses; the right to hear the witnesses and evidence against him; and the right to cross-examine witnesses.
- (B) At least **three (3) days** prior written notice shall be given to a licensee of any hearing under this Code.
- (C) All witnesses that appear and testify shall be sworn.
- (D) All hearings shall be informal in nature and strict rules of evidence shall not apply to hearings under this Code. Evidence determined by the Commissioner to be irrelevant, immaterial or unduly repetitious may be excluded. Evidence may be admitted if it is of a type commonly relied upon by reasonable prudent men in the conduct of their affairs.
- (E) A complete verbatim record of all evidence, testimony, comments and proceedings of any public hearing shall be taken by a certified court reporter or certified shorthand reporter.

(F) Review of any proceedings conducted by the Commissioner shall be limited to a review of the official record of such proceedings. No new or additional evidence shall be admitted or considered by the reviewing tribunal, however, the Commissioner may reopen any hearing to receive new evidence not discovered or available at the original hearing.

(G) The cost of attendance at any public hearing of the certified court or shorthand reporter shall be paid by the City.

(H) No transcript of any public hearing need be prepared except for purposes of appeal or as required by the Commissioner. In the event of an appeal from any public hearing by a licensee, the licensee shall pay the cost to transcribe the official record for purposes of such appeal.

21-4-12 DECISIONS OF LOCAL LIQUOR CONTROL COMMISSIONER AND PENALTIES.

(A) In all cases presented to the Commissioner wherein a licensee is alleged to have violated this Code, state law or applicable rules and regulations, the Commissioner shall within **five (5) business days** after the conclusion of the public hearing reduce his findings and reasons to writing and shall enter and serve upon the licensee a written order.

(B) In any case where the Commissioner determines that a violation of this Code, state law or applicable rules and regulations, has occurred, the Commissioner may proscribe any of the following penalties:

- (1) Direct a written reprimand to the licensee and place a copy of such reprimand on file in the licensee's liquor license application file.
- (2) Impose a fine upon the licensee. Any fine imposed shall not exceed **One Thousand Dollars (\$1,000.00)** for each violation. Each day on which a violation continues shall constitute a separate violation for which a separate fine may be assessed. No licensee shall be fined more than **Ten Thousand Dollars (\$10,000.00)** in the aggregate during any license year.
- (3) Suspend the licensee's liquor license for a period of not more than **thirty (30) days**. In the case of a suspension, the suspension shall begin and end as specified by the Commissioner in his written order.
- (4) Revoke the licensee's liquor license.

(C) In all cases where the Commissioner determines that a penalty is appropriate, the Commissioner may consider the following criteria in deciding the nature of the penalty, the amount of any fine or the length of time of any suspension and whether revocation is warranted.

- (1) The nature of the violation;
- (2) The factual situation and circumstances as presented at the public hearing;
- (3) Past action by the Commissioner in similar situations;

- (4) Facts or circumstances in aggravation or mitigation regarding the violation;
- (5) Prior violations committed by the same licensee during the **three (3) license years** immediately preceding the year in which the violation occurred.

21-4-13 APPEALS. Any decision of the Liquor Commissioner imposing a penalty on any licensee may be appealed by the licensee to the State Liquor Commission provided that written notice of such appeal is filed with the Commissioner and the State Liquor Commission within **twenty (20) days** after service of the Commissioner's written order upon the licensee. The licensee shall request the Commissioner to cause a full written transcript of the public hearing to be prepared and sent to the State Liquor Commission. The Commissioner may require the licensee to pay the cost of preparation of the transcript in advance.

21-4-14 EMERGENCY CLOSING. In all cases where, in the opinion of the Liquor Commissioner, the public peace or the health or safety of any person, is likely to be endangered by allowing any licensed establishment to remain open, the Commissioner may order any establishment or establishments licensed under this Code to close without notice or a hearing. In such event the Commissioner shall enter a written order stating the reason for the closing and the length thereof, which in no event shall be longer than **seven (7) days**. In addition, the Commissioner shall provide any licensee affected by a closing order an opportunity to be heard during the period of the closing.

21-4-15 GENERAL PENALTIES. Any person violating any provision of this Liquor Code in addition to sanctions or penalties provided above, shall also be subject to penalties as set forth in **Chapter 1, Section 1-1-29** of the Revised Code of Ordinances of the City.

(Ord. No. 97-1; 04-14-97)